

V I R G I N I A:

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

MS. THELMA MUSICK AND CURTIS RASNICK, SURFACE OWNERS
V. EQUITABLE RESOURCE EXPLORATION, INC.
VGOB NO. 91-0820-139

ORDER

THIS CAUSE CAME on this 20th day of August, 1991, upon the Notice of Appeal from the Inspector's decision with respect to Equitable Resource Exploration's proposed Well VC-1863, located in the New Garden Magisterial District of Russell County, Virginia heretofore filed by Thelma Musick and Curtis Rasnick. Petitioners, Ms. Thelma Musick and Mr. Curtis Rasnick were represented by Donald Johnson, Esquire, P. O. Box 535, Bristol, VA 24203 and Equitable Resources Exploration was represented by Richard Counts, Esquire, P. O. Box 298, Kingsport, TN 37660.

FINDINGS OF FACT

Based upon the transcript of the hearing held before the Gas and Oil Inspector, the exhibits presented, the Inspector's decision and the evidence presented, the Board finds as follows:

I.

Ms. Thelma Musick and Mr. Curtis Rasnick are surface owners. They own surface land in the New Garden Magisterial District of Russell County, Virginia.

II.

Equitable Resources Exploration proposes to drill Well Number VC-1863 on Ms. Musick's property in the New Garden

Magisterial District of Russell County, Virginia. Mr. Rasnick's property is adjacent to Ms. Musick's property.

III.

Ms. Musick and Mr. Rasnick objected to the location of the well. They contend that the drainage plan is not adequate to protect spillage into Weaver Creek and that Equitable Resources Exploration has not complied with permitting procedures necessary to sample and test waters as required in Regulation §VR-480-05-22.1, Section 12.

CONCLUSIONS

I.

The Board finds Ms. Musick and Mr. Rasnick are surface owners and that the only objections that surface owners may raise are:

(1) The operations plan for soil erosion and sediment control is not adequate or effective; (2) Measures, in addition to the requirement for the well's water-protection string are necessary to protect the fresh water-bearing strata; and, (3) The permitted work will constitute a hazard to the safety of any person. §45.1-361.35B, Code of Virginia. No evidence was presented which supports or substantiates any of the objections that the surface owners may raise.

II.

The evidence and testimony demonstrates that Equitable Resources took a water sample at the closest source, that being the junction of Alvy Creek and Weaver Creek. Ms. Musick acknowledges

that there was no water source on her property; that the well and spring were dry, and that the property was not occupied. Regulation §480-03.22.1.12 requires gas and oil operators to take water samples within 500 feet of the proposed borehole location. In this case, there was no water source within 500 feet of the proposed borehole location. The operator's sample from Alvy and Weaver Creeks, located approximately three quarters of a mile from the proposed borehole site, came from the closest source. If no water source is located within 500 feet of the proposed borehole location, an operator is not in violation of the regulations by sampling the closest source.

III.

The Board finds that the drainage control plan proposed by Equitable Resources Exploration is an adequate plan. Equitable Resources Exploration plans to use sediment control barriers around the perimeter of the drilling site and intends to construct berms and otherwise direct drainage away from the Musick's property and toward a highway diversion ditch. The company anticipates constructing a 9,000 gallon pit for additional drainage control, and intends to have available an emergency pit of similar size to help control water runoff and other anticipated sediment problems.

WHEREFORE, the Board concludes that the surface owners, Ms. Musick and Mr. Rasnick, have failed to show any objection, consistent with the provisions of §45.1-361.35. Accordingly, the Inspector's decision to issue the permit to Equitable Resources Exploration is affirmed.

Done and executed this 10th day of September,
1991, by a majority of the Virginia Gas and Oil Board.

Benny R. Wingle
CHAIRMAN

Done and performed this 10th day of September,
1991 by Order of this Board.

Byron L. Tufman
Principal Executive to the Staff
Virginia Gas and Oil Board

State of Virginia
County of Washington

Acknowledged on this 10th day of September, 1991,
personally before me a notary public in and for the State of Virginia
appeared Benny Wampler, being duly sworn did depose and say that he is
Chairman of the Virginia Gas and Oil Board, that he executed the same and
was authorized to do so.



Diane Davis
Notary Public
My commission expires 9/23/92

State of Virginia
County of Washington

Acknowledged on this 10th day of September, 1991,
personally before me a notary public in and for the State of Virginia
appeared Byron Thomas Fulmer, being duly sworn did depose and say that he is
Principal Executive to the Staff of the Virginia Gas and Oil Board, that he
executed the same and was authorized to do so.



Diane Davis
Notary Public
My commission expires 9/23/92